

SEP 14 2005

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Albert W. Watkins

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September 14, 2005

Signature

Date

BEFORE THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re:

Serial #: 09/756,688
For: Removable Bearing Assemblies
Filed: January 9, 2001
Inventor: Richard L. Fisher
GAU: 3617
Examiner: Avila
Docket #: Fisher-001221

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REQUEST FOR RECONSIDERATION

Claims 21, 23, 25, 26, 28-31, 39, 73 and 74 stand allowed. Claims 43, 47 and 50 stand objected to as being dependent upon a rejected base claim. Claims 40-42, 44-46, 48, 49, 51 and 52 rejected under 35 U.S.C. §102(b) as being clearly anticipated by Lovell. In view of the following remarks, the Examiner is respectfully requested to reconsider the outstanding objections and rejections, and institute an interference proceeding with the Foreman patent regarding the claims that were copied from or rewritten in equivalent language from Foreman and that have been allowed, objected to, or rejected in the outstanding action.

The presently pending claims were either drafted directly from the Foreman patent, or were rewritten using a simple and direct substitution of the applicant's terminology for the terminology used by Foreman. The applicant has submitted a number of affidavits confirming the common meaning in the art of these terms. A number of these claims have been indicated by the Examiner as being patentable. Nevertheless, in the final paragraph of section 5 of the outstanding office action, beginning in the first line of page 3, the Examiner states: "Applicant further requests that an interference be instituted. **However, all of the claims need to be in allowable form for an interference.** The rejected claims need to be canceled or placed in condition for allowance for an interference to be instituted."

MPEP, section 2309.02, page 2300-23, a copy which is attached herewith, states in relevant part:

All claims in each party's application or patent must be listed in the spaces provided on the form as either corresponding or not corresponding to the count. A claim corresponds to a count if, considering the count as prior art, the claim would be unpatentable over the count under 35 U.S.C. 102 or 35 U.S.C. 103. If the examiner is in doubt as to whether a party's claim does or does not correspond to a count, it should be listed as corresponding to the count. If the party disagrees with this listing, a motion may be filed under 37 CFR 1.633(c)(4) during the interference to designate the claim as not corresponding to the count.

Note that for each count, every claim in a party's application or patent must be designated as either corresponding or not corresponding to the count; this includes any claims of the application which may be under rejection. For every claim of an application which is listed on the form, the examiner must indicate whether or not that claim is allowable by writing its


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number in either the "patented or patentable pending claims" box or the "unpatentable pending claims" box on the form. All patent claims and at least one of the application claims designated as corresponding to the count must be listed in the "patented or patentable pending claims" box.

According to this section of the MPEP, not all claims are required to be determined patentable by the patent examiner prior to instituting an interference. Instead, the Examiner is instructed to simply designate the counts and indicate which claims are believed to be patentable or unpatentable.

The Examiner is therefore respectfully requested to withdraw the present final rejection and institute an interference with the Foreman patent. Should there remain any open issues in this application which might be resolved by telephone, the Examiner is respectfully requested to call the undersigned at 320-363-7296 to further discuss the advancement of this application. While no fees should be due from the present correspondence, the Commissioner is authorized to charge any fees associated with this correspondence to deposit account 17-0155.

Sincerely,


Albert W. Watkins
reg. 31,676

ENC: MPEP 2300-23

INTERFERENCE PROCEEDINGS

2309.02

A separate form is used for each count of the interference. The form need not be typed. If the count is identical to a claim of one of the parties, the number of that claim is circled. If the count is not identical to any claim of any of the parties, the count should be typed on a plain sheet and attached to the form.

The files to be included in the interference should be listed by last name (of the first listed inventor if application is joint), application number, filing date, and, if applicable, patent number and issue date.

The sequence in which the parties are listed on the form is completely immaterial. If the examiner has determined that a party is entitled to the benefit of the filing date of one or more applications (or patents) as to the counts, the blanks provided on the form for indicating this fact should be filled in as to all such applications. It is particularly important to list all intermediate applications necessary to provide continuity of pendency to the earliest benefit application to which a party is entitled.

An applicant may be accorded the benefit of a foreign application on the Form PTO-850 and the declaration notices only if the papers required by 37 CFR 1.55, including an English translation of the foreign application, have been filed and the primary examiner has determined that the applicant is in fact entitled to the benefit of such application. In addition, for utility or plant applications filed on or after November 29, 2000, the applicant must submit the priority claim within the time required by 37 CFR 1.55(a)(1) or file a grantable petition, including the surcharge set forth in 37 CFR 1.17(t), for an unintentionally delayed priority claim under 37 CFR 1.55(c). A patentee may be accorded the benefit of the filing date of a foreign application in the notice of interference provided he or she has complied with the requirements of 37 CFR 1.55, has filed an English translation, if required, and the primary examiner has determined that at least one species within the count involved in the interference is supported by the disclosure of the foreign application.

All claims in each party's application or patent must be listed in the spaces provided on the form as either corresponding or not corresponding to the count. A claim corresponds to a count if, considering the count as prior art, the claim would be unpatentable

over the count under 35 U.S.C. 102 or 35 U.S.C. 103. If the examiner is in doubt as to whether a party's claim does or does not correspond to a count, it should be listed as corresponding to the count. If the party disagrees with this listing, a motion may be filed under 37 CFR 1.633(c)(4) during the interference to designate the claim as not corresponding to the count.

Note that for each count, every claim in a party's application or patent must be designated as either corresponding or not corresponding to the count; this includes any claims of the application which may be under rejection. For every claim of an application which is listed on the form, the examiner must indicate whether or not that claim is allowable by writing its number in either the "patented or patentable pending claims" box or the "unpatentable pending claims" box on the form. All patent claims and at least one of the application claims designated as corresponding to the count must be listed in the "patented or patentable pending claims" box.

If an involved application or patent contains multiple dependent claims, the examiner should be careful to indicate which embodiments of each multiple dependent claim correspond or do not correspond to each count. An embodiment of a multiple dependent claim should not be circled on form PTO-850 as being the count, but rather, the embodiment should be written out in independent form in the space provided.

After Form PTO-850 is filled out for each count of the proposed interference, it must be signed by the primary examiner and an Interference Practice Specialist in the space provided. The form must also be signed by the TC Director, if the TC Director's approval is required (as when the interference involves two applications whose effective filing dates are more than 6 months apart).

The examiner should keep a copy of the form or forms and all attachments for his/her records.

If two of the parties have the same attorney or agent, the examiner will in a separate memorandum call the attention of the Board to that fact when the Interference Initial Memorandum is forwarded. The administrative patent judge, when the interference is declared, can then take such action as may be appropriate under 37 CFR 1.613(b).

2300-23

August 2001